18

Supreme Court

1

OF THE STATE OF NEW YORK.

KINGS COUNTY.

THOMAS WALDEN,
Plaintiff,

against

DELL P. PETERS,
Defendant.

Sir:—Take notice that Dell P. Peters, the defendant, 2
appeals to the General Term of the Supreme Court, Kings County, from the judgment entered herein on the eleventh day of October, 1870.

Yours, &c.,
WARDALE G. MCALLISTER,
Attorney for defendant and appellant, Dell P. Peters,
303 Broadway, New York City.

To A. H. SIDELL, ESQ., Plaintiff's Attorney.
JOHN J. WHITE, ESQ., Clerk Supreme Court.
Dated New York, Oct. 18, 1870.

3 SUPREME COURT,

KINGS COUNTY.

THOMAS WALDEN, Plaintiff, *against* DELL P. PETERS, Defendant.	Summons. — For a money demand on Contract.

To the Defendant:

4 You are hereby summoned and required to answer the complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said complaint on the subscriber at his office,365 Fulton street, Brooklyn, within twenty days after the service hereof, exclusive of the day of such service; and if you fail to answer the complaint within the time aforesaid, the plaintiff in this action will take judgment against you for the sum of four hundred dollars with interest from the 27th day of September, one thousand eight hundred and sixty-seven, besides the costs of this action.

Dated Nov. 9th, 1867.

A H. SIDELL,
Plaintiff's Attorney.

SUPREME COURT, 5

COUNTY OF KINGS.

THOMAS WALDEN

against

DELL P. PETERS.

The complaint of the above named plaintiff respectfully shows to this Court:

1st. That on or about the 20th of September, 1867, the said plaintiff applied to the defendant, who is proprietor of the Pierrepont House, in the City of Brooklyn, 6 for board for himself and family, and offered to pay therefor the sum of one hundred dollars per week, which the said defendant agreed to take, and an agreement to that effect was had between the said parties hereto.

2nd. That no specified term or time beyond one week from date of said agreement was mentioned or fixed upon as to the continuance of said plaintiff as boarder with said defendant, nor was anything said as to how long he should probably remain at the said defendant's house.

3rd. That the said plaintiff on the said 20th of Sep- 7 tember in pursuance of said agreement, and with a view of becoming a boarder with said defendant, advanced him and deposited with said defendant in cash the sum of five hundred dollars, and took his receipt therefor, and that after the expiration of one week therefrom plaintiff notified the said defendant that he concluded not to board with said defendant, that he, plaintiff, had made other arrangements, and that the said agreement was cancelled and annulled, and that he should not consider himself holden thereby, and that the same was inoperative.

8 4th. That the said plaintiff allowed the defendant to retain from the said sum of $500 the amount of one hundred dollars, that he has demanded of said defendant, a return of the balance of $100, which defendant refused and still refuses to return, although plaintiff is justly and legally entitled thereto.

Wherefore the plaintiff demands judgment against the said defendant for the sum of four hundred dollars with interest from the 27th day of September, 1867, besides the costs of this action.

A. H. SIDELL,
Attorney for Plaintiff.

9 County of Kings, } ss.
City of Brooklyn. }

Thomas Walden, the plaintiff in above action, being duly sworn, says that he has heard read the foregoing complaint, that the same is true to his own knowledge.

THOMAS WALDEN.

Sworn to before me, }
this 11th day of Nov., 1867. }
JAS. E. PALMER,
Commissioner of Deeds.

NEW YORK SUPREME COURT,

KINGS COUNTY.

THOMAS WALDEN

against

DELL P. PETERS.

The defendant in answer to the complaint of the plaintiff in this action says, that on the 20th day of September, 1867, at the city of Brooklyn, a certain contract or agreement was made and entered into by and between the plaintiff and defendant, whereby the defendant agreed to provide and furnish to the plaintiff and his family lodging in two certain rooms in the hotel then kept by the defendant, in the city of Brooklyn, known as the Pierrepont House, which two rooms were then and there designated and agreed upon, and to provide and furnish the necessary food or board for the plaintiff and his family for the five weeks next ensuing the said 20th day of Sept., 1867, for the price or sum of five hundred dollars to be paid in advance by the said plaintiff, and the defendant further says that on the said 20th day of September, 1867, the plaintiff as and for compliance upon his part of the said contract or agreement, paid to the defendant the said sum of five hundred dollars which is the same sum of five hundred dollars mentioned in the said complaint. And the defendant further says, that immediately after the said 20th day of September, 1867, he appropriated and set apart to and for the use and occupation of the plaintiff and his family, the said two rooms so as aforesaid designated and agreed upon and furnished, and provided food and board for the plaintiff

and his family; that during all the said five weeks the said two rooms were not used or occupied by any person or persons whomsoever, but were kept ready for the occupation thereof by the plaintiff and his family, and that during all that time the defendant was ready, able and willing to keep and perform the said contract or agreement upon his part, of which the plaintiff had notice. And the defendant further answering denies that the said contract or agreement was cancelled or annulled in any manner or form whatsoever. And the defendant further answering denies each and every allegation in said complaint contained not hereinbefore fully answered unto.

Wherefore the defendant demands judgment that the said complaint be dismissed with costs.

STEVENS & REYMERT,
Defendant's Attorneys.

City and County of New York:

Dell P. Peters, the defendant above named, being duly sworn, says, that the foregoing answer is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

D. P. PETERS.

Sworn to before me,
this 6th day of December 1867.

BENJAMIN WRIGHTS,
Notary Public,
New York City.

SUPREME COURT

KING'S COUNTY.

THOMAS WALDEN

Plaintiff,

against

DELL P. PETERS.

Defendant.

We hereby consent that Wardale G. McAllister Esq., of 261 Broadway, New York City, be substituted in our place as attorney and counsel for the above named defendant in this action.

New York, October 29th 1869.

STEVENS & REYMERT,
Defendant's Attorneys.

18 SUPREME COURT

KINGS COUNTY.

THOMAS WALDEN

Plaintiff,

against

DELL P. PETERS,

Defendant.

19 At a special Term of the Supreme Court of the State of New York, held in and for the County of Kings, at the city of Brooklyn, in said county, on the fifth day of November, 1869:

Present—HON. J. W. GILBERT, Justice.

On reading and filing the annexed consent of Stevens & Reymert:

Ordered that Wardale G. McAllister of No., 261 Broadway, in the city of New York, be substituted as the attorney and counsel of the defendant in the above entitled action.

JOHN J. WHITE.